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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120814338–2711–02]

RIN 0648-BE64

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew (West Coast Region, NMFS), phone: 206-526-6147, fax: 206-526-6736, gretchen.hanshew@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Website at <http://www.gpo.gov/fdsys/search/home.action>, or <http://federalregister.gov>. Background

information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>. Copies of the final environmental impact statement (FEIS) for the 2013-2014 Groundfish Specifications and Management Measures are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

Background

The PCGFMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS.

On November 14, 2012, NMFS published a proposed rule to implement the 2013-2014 harvest specifications and management measures for most species of the Pacific Coast groundfish fishery (77 FR 67974). The final rule to implement the 2013-2014 harvest specifications and management measures for most species of the Pacific Coast Groundfish Fishery was published on January 3, 2013 (78 FR 580).

The Council, in coordination with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, recommended changes to current groundfish management measures at its October 17, 2014 meeting. Specifically, the Council recommended changing the amount of darkblotched rockfish initially deducted from the annual catch limit (ACL) to account for mortality in the incidental open access sector from 18.4 metric tons (mt) to 15.4 mt. The Council also recommended that the corresponding 3 mt of darkblotched rockfish previously deducted from the ACL be made available to the catcher/processor (C/P) sector of the at-sea

Pacific whiting fishery. On November 12, 2014, NMFS published an inseason action to implement the Council's recommended changes (79 FR 67095). That rule correctly described the action and the intent, but contained erroneous calculations in the footnotes to Table 2b to subpart C. As a result of those errors, only the 3 mt reduction of the amount of darkblotched rockfish deducted from the ACL to account for mortality in the incidental open access sector was made. The increase to the C/P allocation of darkblotched rockfish was calculated incorrectly. For the same reasons stated in the November 12, 2014 rule and summarized below, this rule implements the Council's recommended changes to the darkblotched rockfish allocation to the C/P sector by superseding Table 2b to subpart C that published on November 12, 2014.

Transferring Darkblotched Rockfish to the Catcher/Processor Sector via Inseason Action

At the start of 2014, the C/P and Mothership (MS) sectors of the Pacific whiting fishery were allocated 9.0 mt and 6.3 mt of darkblotched rockfish, respectively, per allocation regulations at § 660.55(c)(1)(i)(A). On October 17, 2014 NMFS reapportioned 3.0 mt of darkblotched rockfish from the C/P sector to the MS sector as an automatic action pursuant to §§ 660.60(d) and 660.160(c)(5), reducing the C/P darkblotched rockfish allocation from 9.0 mt to 6.0 mt and increasing the MS allocation from 6.3 mt to 9.3 mt. This action allowed the MS sector to reopen in a timely manner. At their October 17, 2014 meeting, the Council recommended redistributing 3 mt of darkblotched rockfish from the "off-the-top" deductions that were made at the start of the 2013-2014 biennium, and giving that 3 mt to the C/P sector to accommodate potential bycatch of darkblotched rockfish as the C/P sector prosecutes the remainder of its 2014 Pacific whiting fishery. NMFS took an inseason action to transfer darkblotched rockfish to the C/P sector allocation in the November 12, 2014 rule, however, a footnote to Table 2b, Subpart C, incorrectly described the calculations made during the transfer

of darkblotched rockfish from the “off-the-top” deductions to the C/P sector. This rule implements the Council-recommended change to the C/P sector allocation by publishing the corrected Table 2b, including footnotes, and superseding the inaccurate regulations and bringing consistency between Tables 2a and 2b.

The action to transfer darkblotched rockfish from the “off-the-top” deductions to the C/P sector was implemented, in part, on November 12, 2014. This rule completes the implementation of the transfer of darkblotched rockfish to the C/P sector, for the same reasons described in detail in the preamble to the November 12, 2014 rule (79 FR 67095).

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective [insert date of publication in the FEDERAL REGISTER].

At the October emergency Council meeting, the Council recommended that reapportionment of darkblotched rockfish to the C/P sector be implemented as quickly as

possible. There was not sufficient time after that meeting to undergo proposed and final rulemaking before this action needs to be in effect. For the actions implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent transfer of darkblotched rockfish to the C/P sector until later in the season, or potentially eliminate the possibility of doing so during the 2014 calendar year entirely, and is therefore impractical. Failing to transfer darkblotched rockfish to the C/P sector in a timely manner could result in unnecessary restriction of fisheries if the C/P sector exceeded its darkblotched allocation. Providing the C/P sector fishermen an opportunity to harvest their limits of Pacific whiting without interruption and without exceeding their darkblotched rockfish bycatch limit allows harvest as intended by the Council, consistent with the best scientific information available. The Pacific whiting fishery contributes a large amount of revenue to the coastal communities of Washington and Oregon and this change allows continued harvest of Pacific whiting while continuing to prevent ACLs of overfished species and the allocations for target species from being exceeded. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2013-2014.

Delaying these changes would also keep management measures in place that are not based on the best available information. Such delay would impair achievement of the PCGFMP goals and objectives of managing for appropriate harvest levels while providing for year-round fishing and marketing opportunities. Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

NMFS has reinitiated section 7 consultation on the PCGFMP with respect to its effects on listed salmonids. In the event the consultation identifies either reasonable and prudent

alternatives to address jeopardy concerns or reasonable and prudent measures to minimize incidental take, NMFS would exercise necessary authorities in coordination to the extent possible with the Council to put such additional alternatives or measures into place. After reviewing the available information, NMFS has concluded that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify any designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: November 17, 2014.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq. and 16 U.S.C. 773 et seq.

2. Table 2b to subpart C is revised to read as follows:

Table 2b. To Part 660, Subpart C - 2014, and Beyond, Allocations by Species or Species Group. (Weights in Metric Tons)

Species	Fishery HG	Allocations			
		Trawl		Non-trawl	
		%	Mt	%	Mt
Arrowtooth flounder	3,671	95%	3,487	5%	184
Bocaccio - S of 40°10' N. lat. a/	328.6	NA	79.0	NA	249.6
Canary rockfish a/ b/	101.5	NA	54.1	NA	47.4
Chilipepper - S of 40°10' N. Lat.	1,423	75%	1,067	25%	356
Cowcod - S of 40°10' N. lat. a/	2.9	NA	1.0	NA	1.9
Darkblotched rockfish c/	309.2	95%	293.7	5%	15.5
Dover sole	23,410	95%	22,240	5%	1,171
English sole	5,543	95%	5,266	5%	277
Lingcod					
N of 40°10' N. lat.	2,600	45%	1,170	55%	1,430
S of 40°10' N. lat.	1,054	45%	474	55%	580
Longnose skate a/	1,928	90%	1,735	10%	193
Longspine thornyhead					
N of 34°27' N. lat.	1,912	95%	1,816	5%	96
Minor shelf rockfish north a/	903	60.2%	543	39.8%	359
Minor slope rockfish north	1,098	81%	889	19%	209
Minor shelf rockfish south a/	668	12.2%	81	87.8%	587
Minor slope rockfish south	601	63%	379	37%	222
Other flatfish	4,682	90%	4,214	10%	468
Pacific cod	1,191	95%	1,131	5%	60
POP - N of 40°10' N. lat. d/	136.5	95%	129.7	5%	6.8
Pacific whiting	TBA	100%	TBA	0%	TBA
Petrable sole a/	2,418.0	NA	2383.0	NA	35.0
Sablefish					
N of 36° N. lat.		See Table 1c of this subpart			
S of 36° N. lat.	1,555.0	42%	653	58%	902
Shortspine thornyhead					
N of 34°27' N. lat.	1,466	95%	1,393	5%	73
S of 34°27' N. lat.	351	NA	50	NA	301
Splitnose - S of 40°10' N. Lat.	1,658	95%	1,575	5%	83
Starry Flounder	1,521	50%	761	50%	761
Widow e/	1,411	91%	1,284	9%	127
Yelloweye rockfish a/	12.2	NA	1.0	NA	11.2
Yellowtail - N of 40°10' N. Lat.	3,681	88%	3,239	12%	442

a/ Allocations decided through the biennial specification process.

b/ 13 mt of the total trawl allocation of canary rockfish is allocated to the at-sea whiting fisheries, as follows: 5.4 mt for the mothership fishery, and 7.6 mt for the catcher/processor fishery.

c/ 9 percent (26.4 mt) of the total trawl allocation for darkblotched rockfish is allocated to the whiting fisheries, as follows: 11.1 mt for the shorebased IFQ fishery, 6.3 mt for the mothership fishery, and 9.0 mt for the catcher/processor fishery. Effective at 2000 hours local time on October 17, 2014, the amount of darkblotched rockfish available to the catcher/processor fishery was reduced by 3.0 mt, to 6.0 mt, and the amount available to the mothership fishery was raised by 3.0 mt, to 9.3 mt. The amount available to the catcher/processor fishery was subsequently raised back to 9.0 mt by distributing to the catcher/processor fishery 3.0 mt of the 18.4 mt initially deducted from the ACL to account for mortality in the incidental open access fishery, consistent with § 660.60(c)(3)(ii). The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

d/ 30 mt of the total trawl allocation for POP is allocated to the whiting fisheries, as follows: 12.6 mt for the shorebased IFQ fishery, 7.2 mt for the mothership fishery, and 10.2 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

e/ 500 mt of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 210 mt for the shorebased IFQ fishery, 120 mt for the mothership fishery, and 170 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the

shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

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